

**DAY PITNEY LLP**

(MAIL TO) P.O. BOX 1945, MORRISTOWN, N.J. 07962-1945  
(DELIVERY TO) 200 CAMPUS DRIVE, FLORHAM PARK, N.J. 07932-0950  
(973) 966-6300

**ATTORNEYS FOR Defendant**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

OSS Nokalva, Inc.	:	HONORABLE MARY L. COOPER
Plaintiff,	:	
v.	:	Civil Action No. 08-03169
European Space Agency,	:	(MLC) (TJB)
Defendant.	:	
	:	<b>NOTICE OF MOTION</b>
	:	<b>TO DISMISS PURSUANT TO THE</b>
	:	<b>INTERNATIONAL ORGANIZATIONS</b>
	:	<b>IMMUNITIES ACT</b>

**[DOCUMENT ELECTRONICALLY  
FILED]**

TO: Ronald L. Israel, Esq.  
Wolf & Samson, P.C.  
The Offices at Crystal Lake  
One Boland Drive  
West Orange, New Jersey 07052  
Attorney for Plaintiff OSS Nokalva, Inc.

SIR:

**PLEASE TAKE NOTICE** that on March 2, 2009, at 9:00 a.m. in the forenoon or as soon thereafter as counsel may be heard, the undersigned, attorneys for defendant European Space Agency will move before the Honorable Mary L. Cooper, U.S. District Court, District of New Jersey, Trenton, New Jersey for an Order dismissing plaintiff's Complaint pursuant to F.R.C.P. 12(b)(1) and 12(b)(6); and

**PLEASE TAKE FURTHER NOTICE** that in support of the within motion, defendant European Space Agency shall rely upon the papers previously submitted and electronically filed by defendant European Space Agency, including:

(1) The Affidavit of Karlheinz Kreuzberg in Support of Motion to Dismiss, dated July 3, 2008, and electronically filed on July 3, 2008;

(2) Defendant European Space Agency's Brief in Support of its Motion to Dismiss Pursuant to the International Organizations Immunities Act, dated July 3, 2008, and electronically filed on July 3, 2008;

(3) The proposed Order Dismissing Plaintiff's Complaint Pursuant to the International Organizations Immunities Act, electronically filed on July 3, 2008;

**PLEASE TAKE FURTHER NOTICE** that defendant European Space Agency hereby requests oral argument; and

**PLEASE TAKE FURTHER NOTICE** that at the time and place aforesaid, defendant European Space Agency will request that the proposed form of Order previously submitted be entered by the Court.

DAY PITNEY LLP  
Attorneys for Defendant

By: 

ELLIOT D. OSTROVE  
A Member of the Firm

DATED: February 5, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the within Notice of Motion was served on the Plaintiff by sending the same, through the Court's Electronic Case Filing system, to the Plaintiff's counsel of record:

Ronald L. Israel, Esq.  
Wolf & Samson, P.C.  
The Offices at Crystal Lake  
One Boland Drive  
West Orange, New Jersey 07052  
Attorney for Plaintiff OSS Nokalva, Inc.

  
\_\_\_\_\_  
JONATHAN E. GATES

DATED: February 5, 2009